

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

STANLEY E. MCGLOTHLIN,	§	No. 5:23-CV-234-DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
BENEFITS FOR CORPORATE	§	
AMERICA, INC., BENEFIT	§	
STRATEGIES GROUP, LLC,	§	
BENEFITS FOR CORPORATE	§	
AMERICA, INC. DEFERRED	§	
COMPENSATION PLAN.,	§	
	§	
Defendants.	§	

ORDER ADOPTING REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE AND GRANTING MOTION FOR DEFAULT
JUDGMENT

Before the Court is a Report and Recommendation (“the Report”) (Dkt. # 17) submitted by United States Magistrate Judge Richard B. Farrer. After reviewing the Report, the Court **ADOPTS** Judge Farrer’s recommendations and **GRANTS** Plaintiff Stanley McGlothlin’s Motion for Default Judgment. (Dkt. # 11.)

Plaintiff filed his Motion for Default Judgment on October 6, 2023. (Dkt. # 16.) The Motion was referred to Judge Farrer by text order on October 10, 2023. Judge Farrer issued his Report and Recommendations on February 28, 2024.

(Dkt. # 17.) Certified mail receipts of the Report and Recommendation were filed on February 28, 2024 and March 18, 2024. (Dkts. ## 18, 19.)

The facts preceding this Order are laid out in Judge Farrer's Report. (See Dkt. # 17.) In his Report, Judge Farrer notes that Defendant was properly served in this case, failed to appear or respond, and that the clerk properly entered default. (Id. at 4–5.) Judge Farrer then found that Plaintiff sufficiently pleaded his ERISA and Texas common law claims and is therefore entitled to default judgment. Specifically, Judge Farrer found that Plaintiff sufficient pled: a claim against Defendants Benefits for Corporate America, Inc. (“BCA”) and Benefit Strategies on his first ERISA claim under 29 U.S.C. § 1132(a)(2), a claim against all three defendants under 29 U.S.C. § 1132(a)(3), a negligence claim against Defendant Benefit Strategies, a conversion claim against Defendant Benefit Strategies, and a breach of fiduciary duty claim against Defendant BCA and Benefit Strategies. (See id.)

Further, Judge Farrer found that Plaintiff's pleadings and supporting documentation establish the exact damages suffered and that he is entitled to default judgment for the full amount of his actual damages, in the amount of McGlothlin's investment account managed by Defendants. (Id. at 10.) This account held a total of \$939,317.82, all of which he is entitled to recover. (Id.) Judge Farrer also found that Plaintiff is entitled to reasonable attorney fees in the

amount of \$58,148.50 under 29 U.S.C. § 1132(g)(1). (*Id.* at 12.) Lastly, Judge Farrer found that Plaintiff McGlothlin is entitled to costs, in the amount of \$1,050.72, and post-judgment interest at a rate to be determined by this Court to begin accumulating on the date of such judgment. (*Id.*) The Court determines that post-judgment interest should be awarded at a rate of 5.17%.

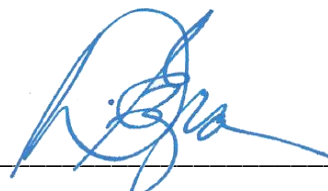
<https://www.txs.uscourts.gov/page/post-judgment-interest-rates>.

Objections to the Report were due within 14 days after being served with a copy. Where, as here, none of the parties objected to the Magistrate Judge's findings, the Court reviews the Report for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989). After careful consideration, the Court adopts the Magistrate Judge's Report. The Court finds the Magistrate Judge's conclusions that default judgment should be entered is neither clearly erroneous nor contrary to law.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation (Dkt. # 17) as the opinion of the Court and **GRANTS** Plaintiff's Motion for Default Judgment.

IT IS SO ORDERED.

DATE: San Antonio, Texas, May 29, 2024.



David Alan Ezra
Senior United States District Judge